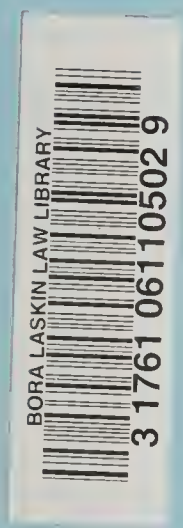




UNIVERSITY OF  
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# **LABOUR LAW**

## **SPRING 2010**

**PROFESSOR BRIAN LANGILLE**

**Supplementary Materials**

**Volume 1**

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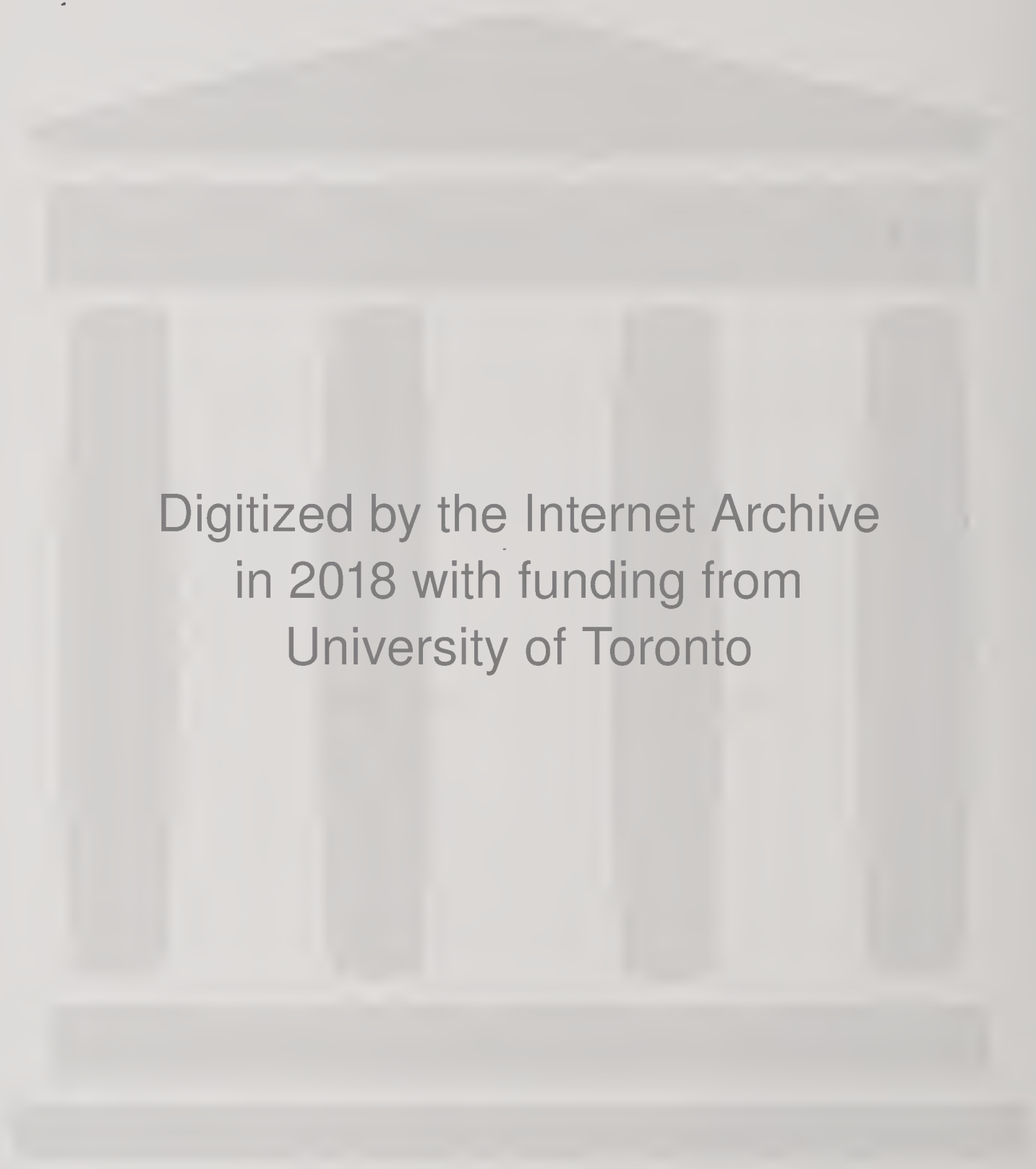
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**LABOUR LAW**  
**SPRING 2010**

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**COURSE OUTLINE**

- SESSION 1  
Mon Jan. 4      **What is Labour Law?**  
1. Casebook 1-3, 51-57.
- SESSION 2  
Wed Jan. 6      **The Common Law I**  
**A. Who is an Employee?**  
1. Casebook 99-100 (note and Kahn-Freund)  
2. Casebook 100-106 (Langille and Davidov)  
3. Denham v. Midland Mutual (BB)  
4. Doyle v. London Life (BB)  
5. Massey v. Crown Life (BB)  
*(Query – how do you reconcile Doyle and Massey?)*  
**B. The Contract of Employment**  
**(a) General**  
1. MacNeil, “The Many Futures of Contract” pp. 693-696, 720-725. (BB)  
2. Greenberg v. Meffert (BB)  
**(b) Changes**  
1. Peerless Laundry v. Neal (BB)  
2. Hill v. Peter Gorman Casebook 140-41  
3. Wronko v. Western Inventory (BB)  
4. Braiden v. LA-Z-BOY (BB)  
5. KMA Caterers v. Howie (BB)
- SESSION 3  
Mon Jan. 11      **The Common Law II**  
**A. Breach**  
1. Laws v. London Chronicle (BB)  
2. Haldane v. Shelbar (BB)  
3. Carscallan v. FRI (BB)  
**B. Contract and Tort**  
1. Douglas v. Kinger (BB)

### **C. Contract and Fiduciary Obligations**

1. Felker v. Cunningham (BB)
2. RBC Dominion v. Merrill Lynch (BB)

### **D. The Implied Term of Reasonable Notice**

1. Casebook 118-125, Cronk v. Canadian General Insurance, (including note re: Ont CA decision)
2. Casebook 792-800, Machtinger v. HOJ
3. Casebook 133-138, Ceccol v. Ontario Gymnastic Federation
4. Casebook 130-133, Nardocchio v. CIBC

SESSION 4  
Wed Jan. 13

### **The Common Law III**

#### **A. Remedies**

1. Casebook 160-168, Wallace v. United Grain Growers (SCC), \*\*\*AND DISSENT (BB)\*\*\*
2. Honda v. Keays (SCC) (BB)  
(*Query – does Keays overrule Wallace?*)
3. Evans v. Teamsters (BB)
4. Wronko #2 (BB)

#### **B. Human Rights**

1. Christie v. York (BB)
2. Casebook 106-109, Bhaduria v. Seneca College

SESSION 5  
Mon Jan. 18

### **Collective Bargaining - Scope (Who is an Employee?)**

#### **A. Introduction**

1. Casebook 69-80 (Paul Weiler, Reconcilable Differences)

#### **B. General issue**

1. Casebook 210-213 (top) (including Hearst Publications (USSC 1944))
2. OLRA s.1(1)

#### **C. “Dependent Contractors”**

1. OLRA s.1(1)
2. Casebook 214-222 (including Winnipeg Free Press)

#### **D. Exclusions**

##### **(a) “Rational”**

1. OLRA s.1(3)(b)
2. Casebook 237-247 (Children’s Aid Ottawa-Carelton)
3. Casebook 253-255 (including Karl Klare article)
4. Corporation of the City of Burnaby (1974, BCLRB, (Weiler)) (BB)

##### **(b) “Irrational”**

1. Casebook 256-257 (Bank of Nova Scotia)



**E. Trade Unions**

1. Smith v. Rhuland (SCC) (BB)
2. Casebook 258-263 (Kubota)

SESSION 6  
Wed Jan. 20

**“Recognition” and “Unfair Labour Practices”**

**A. Introduction**

1. Casebook 264-267 (“Estevan”)

**B. “Motive”**

1. OLRA ss. 5, 70, 72
2. Casebook 271-276 (Ducheneau)
3. Casebook 277-283 (Int’l Wallcoverings)
4. CBC v. CLRB (“Goldhawk”) (SCC) (BB)
5. Casebook notes 283-285

**C. “The Freeze”**

1. OLRA s. 86
2. Casebook 285-290 – including Simpsons at p. 286, Royal Ottawa Health Care at p. 288, and Exchange Parts at p. 290 (*Query - why is this case HERE?*)

SESSION 7  
Mon Jan. 25

**Unfair Labour Practices II**

**A. Free Speech**

1. Casebook 291-302 (including WALMART)

**B. No Solicitation Rules**

1. Casebook 302- 309 (including Canada Post)

**C. Remedies**

1. OLRA s. 96
2. Casebook 309-323 (including National Bank of Canada - both CLRB and SCC)

**D. Professional responsibility of Labour Lawyers**

1. Casebook 318-322 (LSUC v. Rovet)

SESSION 8  
Wed Jan. 27

**Bargaining Units and Certification**

1. OLRA ss. 7, 8, 9, 10
2. Casebook 328-350 including Metroland 330-335, CIBC Powell River 336-337
3. Casebook CIBC 339-334, National Bank Rimouski 345-346, and 346-350 regarding the “Amon Principle”)
4. Casebook 350-358

- SESSION 9  
Mon Feb. 1
- The Duty To Bargain**
- A. Content**
1. OLRA s. 17
  2. Casebook 396-416 (including Radio Shack, 400-407, Canada Trustco 407-410, Langille and Macklem 410-414, Royal Oak Mines 414-416).
- B. Scope**
1. Pulp and Paper (BCCRB, Weiler, 1978) (BB)
  2. Casebook 420-428 (including Consolidated Bathurst 423-428).
- SESSION 10  
Wed Feb. 3
- A. The Duty To Bargain – Remedies**
1. Casebook 428-434 (Royal Oak Mines)
- B. Economic Conflict I - The Constitutional Issue**
1. Casebook 450-463. (Alberta Reference –“The Trilogy”)
- SESSION 11  
Mon Feb. 8
- Economic Conflict II**
- A. What is a Strike? A Lockout?**
1. OLRA s.1(1)
- (a) Strike**
1. Casebook 465-469 (Graham Cable)
  2. Casebook 472-477 (including ILA v. MEA 472-474 and Nelson Crushed Stone 474-475)
- (b) Lockout**
1. Casebook 477- 481 (including Westroc Industries 478-481)
- B. Multiple Fora**
1. Casebook 498-511 ( St Anne Nakawic 498-504, National Harbours Board 506-508, Polymer 509-511)
- SESSION 12  
Wed Feb. 10
- Economic Conflict III – Picketing**
1. Casebook 514-548 (Harrison v. Carswell 519-521, Industrial Hardwood 521-524, Hersees of Woodstock 524-526, Consolidated Bathurst 526-529, Pepsi-Cola 532-546)
- \*\*\*\* READING WEEK \*\*\*\*
- SESSION 13  
Mon Feb. 22
- Economic Conflict IV- Employee Status During a Strike**
1. Casebook 511-513 (Rogers Cable)
  2. Casebook 548-557 (including Royal York 548-550, EPA 551-553, Paul Weiler article 555-557)
  3. Casebook 678-681 (SCC in McGavin Toastmaster)



4. Paccar (SCC) (BB)
5. Neenan Paper (OLRB, 2006) (BB)

SESSION 14  
Wed Feb. 24

**Arbitration I (The Big Picture)**

1. OLRA ss. 48, 49
2. Polymer Corporation (Laskin, arbitrator) (BB)
3. Casebook 575-582 (including Young v. CNR 577-578, Russelsteel (Arthurs) 578-582)
4. Casebook 593-599 (including Metro Toronto and Council of Printing Industries cases 596-599)
5. Casebook 609-614 (Ontario CA in “lights and sirens”)
6. Casebook 624-29 (CNR v. Beatty)

SESSION 15  
Mon March 1

**Arbitration II (Dismissal and other issues)**

**A. Dismissal**

1. Casebook, Wm. Scott 604-608
2. Casebook, Cook 614-616

**B. Powers of arbitrators**

1. Casebook, Weber 648-654
2. O’Leary v. NB (BB)
3. Re-read Douglas v. Kinger (session 3)

SESSION 16  
Wed March 3

**The Duty of Fair Representation and Internal Trade Union Affairs**

**A. DFR**

1. OLRA s.74
2. Casebook 676-678
3. Casebook 685-687 (Steel v. Louisville)
4. Casebook 690-696 (Bukvitch)
5. Casebook 701-706 (Rayonier)

**B. Internal Union Affairs**

1. Casebook 725-731 (Berry v. Pulley)

SESSION 17  
Mon March 8

**Employment Standards I**

- A. **INTRODUCTION**, Casebook 750-762 (including Roy Adams article 757-762)
- B. **STATUS**, Casebook 763-769 (Becker Milk) and Lian v. J. Crew (Ont Sup Ct) (BB)
- C. **HOURS of WORK**, Casebook 781-789 (including Falconbridge 784-790)
- D. **DISMISSAL**
  1. Casebook 803-816 (including Slaight Communications 805-816)
  2. Re-read HOJ (session 3)

SESSION 18 Wed March 10	<b>Employment Standards II</b> <ol style="list-style-type: none"> <li>1. <u>Curtis Products (Langille) (BB)</u></li> <li>2. <u>FAIRNESS AT WORK (The Arthurs Report on Federal Labour Standards 2006) chs. 2, 3, 11 (BB)</u></li> <li>3. <u>H. Arthurs, “Reconciling Differences Differently” (BB)</u></li> </ol>
SESSION 19 Mon March 15	<b>Human Rights at Work I</b> <ol style="list-style-type: none"> <li>1. Casebook 841-852 (SCC in <u>Meiorin</u>)</li> <li>2. Casebook 890-896 (SCC in CNR “<u>Action Travail</u>”)</li> </ol> <p style="text-align: center;"><i>Visit of Kaye Joachim</i></p>
SESSION 20 Wed March 17	<b>Human Rights at Work II</b> <ol style="list-style-type: none"> <li>1. <u>Air Canada (SCC) (BB)</u></li> <li>2. <u>McGill Health Centre (SCC) (BB)</u></li> <li>3. Casebook 870-878 (SCC in <u>Okanagan School District</u>)</li> <li>4. <u>Hydro Quebec (SCC) (BB)</u></li> </ol>
SESSION 21 Mon March 22	<b>International Labour Law I – Global Labour Law (ILO)</b> <ol style="list-style-type: none"> <li>1. <u>Sen, Development as Freedom 3-53 (BB)</u></li> <li>2. <u>ILO “The Rules of the Game” (BB)</u></li> <li>3. <u>Langille, “Can We Rely on the ILO?” (BB)</u></li> </ol>
SESSION 22 Wed March 24	<b>International Labour Law II – The Regional and Non-State Dimensions</b> <ol style="list-style-type: none"> <li>1. Casebook 972- 1008</li> </ol>
SESSION 23 Mon March 29	<b>PASSOVER – NO CLASS</b>
SESSION 24 Wed March 31	<b>Domestic Labour Law Meets Constitutional Law Meets International Law</b> <p>Reading</p> <ol style="list-style-type: none"> <li>1. <u>BC Health (SCC June 2007 (BB)</u></li> <li>2. <u>Fraser (Ont. CA Nov 2008) (BB)</u></li> <li>3. Toronto Star, Dec. 8/08, p. 7-8, “Foreign Farm Workers Fired and Evicted.”</li> </ol> <p style="text-align: center;"><i>Visit of Fay Faraday, Jodi Gallagher and Robin Bazu</i></p>
SESSION 25 Mon April 5	<b>REVIEW</b> <ol style="list-style-type: none"> <li>1. <u>Walmart (SCC, Nov. 2009) (BB)</u></li> <li>2. <u>Laskin, “The Labour Junction in Canada: A Caveat” (BB)</u></li> </ol>